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1 WHEREAS on December 18, 2008, Plaintiffs filed the instant lawsuit, challenging EPA's
2 decisions to grant emergency exemptions under Section 18 of the Federal Insecticide, Fungicide and
3 Rodenticide Act ("FIFRA"), 7 U.S.C. § 136p, for the use of two pesticides, CheckMate LBAM-F and
4 CheckMate OLR-F, to control the light brown apple moth in California;

5 WHEREAS on April 16, 2009, EPA revoked the challenged emergency exemptions because an
6 alternative, registered pesticide product had recently become available for the same use authorized by
7 the emergency exemptions;

8 WHEREAS the parties agree that EPA's revocations have rendered this case moot, and that the
9 Complaint should therefore be dismissed with prejudice;

10 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the parties, through
11 their undersigned counsel, that Plaintiffs' Complaint be and hereby is dismissed with prejudice
12 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Each party shall bear its own fees and
13 costs with respect to this action, and all rights of appeal are waived.

14
15 Respectfully submitted,

16 Dated: May 11, 2009

/s/ Stephan C. Volker
STEPHAN C. VOLKER
Attorney for Plaintiffs

17
18 Dated: May 11, 2009

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment & Natural Resources Division
/s/ Rochelle L. Russell
ROCHELLE L. RUSSELL
Attorney, U.S. Department of Justice
Environment & Natural Resources Division
Attorney for Defendants

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21
22 PURSUANT TO STIPULATION, IT IS SO ORDERED.
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25
26 Dated: 5/12/09


SAUNDRA BROWN ARMSTRONG
United States District Judge